

AMENDED IN SENATE JUNE 25, 2021

AMENDED IN ASSEMBLY APRIL 8, 2021

AMENDED IN ASSEMBLY MARCH 18, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1487

Introduced by Assembly Members Gabriel, Chiu, and Santiago

(Coauthors: Assembly Members Lee Kalra, Lee, and Wicks)

(Coauthors: Senators Allen, Durazo, Skinner, and Wiener)

February 19, 2021

An act to add Article 17 (commencing with Section 6250) to Chapter 4 of Division 3 of the Business and Professions Code, relating to legal assistance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1487, as amended, Gabriel. Legal Services Trust Fund Commission: Homelessness Prevention Fund: grants: eviction or displacement.

Existing law prescribes certain rights and limitations for landlords and tenants subject to eviction and certain procedures for civil actions involving evictions.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation, governed by a board of trustees. Existing law requires an attorney to maintain short-term deposits of client funds in an Interest on Lawyers' Trust Account (IOLTA) and requires the interest and dividends earned on the account to be paid to the State Bar for the funding of certain programs that provide civil legal services without charge to indigent persons. Existing law requires the board of trustees

to adopt regulations and procedures necessary to implement provisions, referred to as the Legal Services Trust Fund Program, that govern the funding of those programs. Existing administrative law establishes a Legal Services Trust Fund Commission to administer revenue from IOLTA and other funds remitted to the trust fund program.

This bill would establish the Homelessness Prevention Fund to be administered by the commission. The bill would require the commission, subject to appropriation to the State Bar by the Legislature, to distribute moneys in the fund in the form of grants, awarded on a competitive basis, to fund prescribed legal services, education, and outreach for tenants relating to eviction or displacement. The bill would require the commission to develop guidelines for the grant process in accordance with specified requirements. The bill would establish eligibility requirements for grant applicants, including that the applicant agrees to provide all of the services funded by the grant without charge to recipients. The bill would require a grantee to report semiannually to the commission on certain activities and services funded by the grant and would prohibit a grantee from using more than 15% of the allocation received from the fund for administrative costs in the first year it receives a grant and 10% in every year thereafter. The bill would limit the State Bar expenditure of funds for administration to the actual costs of administration of these provisions, up to 5% of the funds provided.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There currently exists in the State of California a housing
4 and homelessness crisis.

5 (b) According to the 2019 Annual Homeless Assessment Report
6 to Congress, California has at least 151,278 individuals
7 experiencing homelessness on any given day.

8 (c) The COVID-19 pandemic and economic fallout are
9 threatening to worsen the situation as Californians face possible
10 eviction due to job losses, decreased work hours, and unpaid rent.

11 (d) Residential evictions have contributed to the housing and
12 homelessness crisis by exacerbating community instability and
13 displacing households from existing housing. For example, research

1 indicates that a household that has experienced an eviction or
2 received an eviction notice in the past is at significantly increased
3 risk of becoming homeless.

4 (e) Representation in the judicial eviction process is extremely
5 imbalanced. For example, 90 percent of landlords nationwide
6 benefit from legal representation in eviction proceedings, while
7 only 10 percent of tenants are able to secure legal assistance in
8 evictions. In a recent national poll, 64 percent of voters from all
9 political backgrounds supported funding legal services to prevent
10 evictions.

11 (f) Evidence demonstrates that increasing the availability of
12 legal resources to tenants facing eviction leads to the avoidance
13 of displacement in many instances.

14 (g) In addition, providing legal assistance and eviction
15 prevention services to tenants can drastically improve outcomes,
16 has demonstrated economic benefits, and can generate significant
17 cost savings to public agencies. For example:

18 (1) A study of a proposed Right to Counsel program in the City
19 of Los Angeles found that, for every \$1 invested, the program
20 would generate returns of approximately \$3.48 to the City of Los
21 Angeles and \$4.80 to the County of Los Angeles. The analysis
22 found that this return on investment would be generated primarily
23 by the avoidance of public costs related to shelter and housing
24 programs, school funding, health care, and foster care, and that a
25 Right to Counsel program could provide numerous additional,
26 unquantifiable benefits.

27 (2) A study of the City of Philadelphia's Right to Counsel
28 program found that while only 22 percent of unrepresented tenants
29 were able to avoid displacement from their homes through eviction,
30 95 percent of tenants with representation were able to stay in their
31 homes, and represented tenants were twice as likely to receive a
32 favorable judgment.

33 (3) A recent evaluation of the City of San Francisco's Right to
34 Counsel program found that 67 percent of tenants who received
35 representation through that program were able to stay in their
36 homes, including 80 percent of African American tenants.

37 (4) A recent report on the City of New York's Right to Counsel
38 program found that in ZIP Codes where it was implemented, 84
39 percent of represented tenants were able to stay in their homes. In
40 these ZIP Codes, evictions have declined 29 percent.

1 (5) Numerous jurisdictions have also experienced a decrease in
2 eviction filings in their court system after instituting Right to
3 Counsel programs.

4 (6) An evaluation of the Sargent Shriver Act Civil Counsel
5 Programs found that, due to increased settlements, courts were
6 more efficient and had reduced costs.

7 (h) Programs that pair legal assistance with education and
8 outreach have demonstrated an enhanced ability to prevent
9 displacement, avoid eviction filings in many instances, and resolve
10 issues that may lead to displacement if left unaddressed.

11 (i) The coronavirus (COVID-19) pandemic is expected to further
12 exacerbate California's housing affordability crisis, as well as the
13 implications of that crisis. Research from the University of
14 California, Los Angeles, indicates that expiring eviction
15 moratoriums during the pandemic resulted in a national increase
16 of approximately 433,700 COVID-19 cases and approximately
17 10,700 additional deaths between March 13 and September 3,
18 2020, alone.

(j) Programs that pair legal assistance with education and outreach will help prevent displacement and help tenants recover economically from the coronavirus (COVID-19) pandemic. Legal services organizations report that emergency eviction protections put in place at the national, state, and local levels, including recent protections contained in AB 3088 (2020) and SB 91 (2021), have been successful in protecting tenants with representation from eviction, but have been more difficult to navigate for unrepresented tenants, and many tenants are unaware of their rights.

28 SEC. 2. Article 17 (commencing with Section 6250) is added
29 to Chapter 4 of Division 3 of the Business and Professions Code,
30 to read:

34
35 6250. (a) The Homelessness Prevention Fund is hereby
36 established under the administration of the Legal Services Trust
37 Fund Commission in the State Bar.

(b) Moneys in the Homelessness Prevention Fund shall be made available, upon appropriation by the Legislature, to the State Bar to be used as provided in this article.

1 6251. (a) The Legal Services Trust Fund Commission shall
2 distribute funds made available pursuant to Section 6250 to eligible
3 applicants in the form of grants awarded on a competitive basis to
4 fund eligible services pursuant to this article.

5 (b) The Legal Services Trust Fund Commission shall develop
6 guidelines for a competitive grant process to implement this article,
7 which shall include the following requirements:

8 ~~(1) The Legal Services Trust Fund Commission shall focus on
9 equity and ensure geographic diversity in the distribution of grant
10 funds.~~

11 ~~(2)~~

12 ~~(1) To correct historic underinvestments in legal services and
13 lack of legal resources in the Central Valley, Inland Empire,
14 gateway, rural, and desert communities, resources, the Legal
15 Services Trust Fund Commission shall ensure that at least 20
16 percent of total funds are reserved for making awards to eligible
17 applicants in communities in these areas with acute challenges in
18 ensuring access to legal services and access to assistance for
19 low-income residents in navigating the eviction process. the
20 Counties of Alpine, Butte, Del Norte, Fresno, Glenn, Humboldt,
21 Imperial, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced,
22 Modoc, Riverside, San Bernardino, San Joaquin, Shasta, Siskiyou,
23 Stanislaus, Sutter, Tehama, Trinity, Tulare, and Yuba. The Legal
24 Services Trust Fund Commission may make funds so reserved
25 available to other areas if, after providing notice of the availability
26 of the funding, no qualified applications are received by the
27 application deadline.~~

28 ~~(3)~~

29 (2) The Legal Services Trust Fund Commission shall adopt a
30 rubric to fairly and consistently evaluate grant proposals that it
31 receives.

32 6252. (a) Subject to Section 6250, services to prevent eviction
33 or displacement for qualified tenants eligible to be funded pursuant
34 to this article include:

35 (1) Limited-scope legal services that provide tenants with legal
36 assistance designed to prevent eviction or displacement. A legal
37 service provider of a grantee may provide a recipient with
38 limited-scope representation at any point at which the legal service
39 provider deems the recipient to be at risk of eviction or
40 displacement by resolving issues leading to eviction or

1 displacement, responding at various stages of the eviction process,
2 or addressing other housing-related legal issues that increase
3 housing instability. Limited-scope legal services includes, but is
4 not limited to, advice and assistance responding to written notices,
5 pro per responses to unlawful detainers, assisting with reasonable
6 accommodation requests, addressing habitability issues, advising
7 a tenant of their rights and obligations in connection with rental
8 payments, advising tenants regarding rental debt and ensuing
9 consumer action and small claims proceedings, and addressing
10 housing discrimination.

11 (2) Full-scope legal representation to qualified households facing
12 eviction or imminent displacement or the threat of eviction or
13 imminent displacement. A legal service provider of a grantee may
14 provide a recipient with full-scope legal representation after a
15 landlord issues a written notice of intent to evict or at any other
16 point at which the legal service provider deems the recipient to be
17 at risk of eviction or displacement. The legal service provider may
18 continue representation of the recipient through postjudgment
19 motions and, depending on the merits of the case, may provide
20 representation in connection with an appeal.

21 (3) Education regarding tenant rights, fair housing laws, landlord
22 obligations, and related legal topics designed to address factors
23 leading to the avoidable displacement of tenants, including, but
24 not limited to, information regarding access to additional resources
25 to protect against displacement, prevent homelessness, or mitigate
26 the effects of displacement. Education may include the use of
27 media or social media to enhance the delivery of information.

28 (4) Targeted outreach to buildings and neighborhoods where
29 tenants are at heightened risk of displacement to advise tenants of
30 their rights, the availability of additional resources, and options to
31 prevent or mitigate displacement.

32 (b) (1) Except as provided in paragraph (2), legal services
33 described in this section shall not be provided to households whose
34 income exceeds 80 percent of the area median income.

35 (2) If funding is provided to the Homelessness Prevention Fund
36 that carries an income eligibility requirement other than as provided
37 in paragraph (1), the more inclusive requirement shall apply.

38 (c) Legal services described in this section are not required to
39 be provided in a traditional in-person setting. Legal services may
40 be provided with the use of volunteers supervised by attorneys to

1 enhance the efficiency of delivering legal services, to enhance the
2 capacity of a grantee to provide services, or to increase the number
3 of tenants or geographic areas served by the grantee. Legal services
4 may be provided through the use of technology, rather than an
5 in-person setting, so long as efforts are made to make services
6 accessible to tenants who may lack access to such technology.

7 6253. (a) An applicant is eligible to receive a grant pursuant
8 to this article if the applicant meets all of the following criteria:

9 (1) The applicant qualifies for Interest on Lawyers' Trust
10 Account (IOLTA) funding in the year it applies for a grant.

11 (2) The applicant agrees to provide one or more of the services
12 described in Section 6252.

13 (3) The applicant agrees to provide all of the services funded
14 by the grant without charge to recipients.

15 (4) (A) Except as provided in subparagraph (B), the applicant,
16 either individually or in partnership with other entities, agrees to
17 serve recipients without regard to the immigration status of
18 recipients.

19 (B) An applicant is exempt from subparagraph (A) if the
20 applicant demonstrates a lack of capacity to, and documents efforts
21 to secure partnerships to, provide services without regard to
22 immigration status of the recipients.

23 (b) The Legal Services Trust Fund Commission shall give
24 preference to applicants that demonstrate any of the following:

25 (1) A track record of successfully delivering similar services to
26 low-income renters and vulnerable populations.

27 (2) An ability to provide services or access to services by
28 community members who are limited English proficient, taking
29 into account relevant languages spoken by populations in the
30 proposed service area.

31 (3) An ability to provide the full range of services described in
32 Section 6252, whether by itself or with other entities pursuant to
33 paragraph (6).

34 (4) A commitment to prioritize equity *by addressing or*
35 *mitigating barriers to receipt of services, such as a lack of access*
36 *to technology*, and provide services to particularly vulnerable or
37 underserved populations.

38 (5) Use of technology, media, and other strategies to serve a
39 larger number of recipients.

1 (6) Partnerships with, or subgrants to, other entities that may
2 enhance the reach of the program, including, but not limited to,
3 community-based organizations, nonprofit organizations, law
4 schools, local governments, and local governmental agencies.

5 (7) Partnerships between organizations that allow services to
6 be provided to a broader set of community members by addressing
7 barriers related to organizational eligibility requirements.

8 6254. (a) A grantee that receives an allocation pursuant to this
9 article shall provide the Legal Services Trust Fund Commission
10 semiannually with a report on all of the following, as applicable:

11 (1) A description of the nature of services provided and the
12 number of recipients provided services under each service category.

13 (2) If the grantee provided education and outreach services, the
14 approximate number of individuals receiving education and
15 outreach services, a general description of the format for providing
16 those services, and the number of properties or other venues at
17 which the outreach and education was conducted.

18 (3) The number and breakdown of recipients for whom
19 limited-scope or full-scope legal services were provided and
20 whether those services resolved the recipient's legal issue or the
21 factors leading to displacement.

22 (b) If a partner or subgrantee of the grantee is a local government
23 or a local governmental agency, the allocation pursuant to this
24 article shall supplement, and shall not supplant, moneys otherwise
25 allocated by the local government or local governmental agency
26 for the provision of legal services for low-income residents or for
27 the prevention of displacement or eviction of low-income renters.

28 (c) (1) A grantee that receives an allocation pursuant to this
29 article shall not use more than 15 percent of that allocation for
30 administrative costs in the first year it receives a grant and 10
31 percent in every year thereafter.

32 (2) For purposes of this subdivision, "administrative costs" does
33 not include staff and overhead costs directly related to carrying
34 out the eligible activities.

35 (d) No more than 5 percent of the Homeless Prevention Fund
36 funds provided pursuant to this article shall be spent for the
37 administration of these funds by the State Bar, though in no case
38 shall the funds spent exceed the actual costs of administration.
39 Unspent administrative funds shall be redistributed no less than

- 1 annually to qualifying grantees as prescribed by the Legal Services
- 2 Trust Fund Commission.
- 3 6255. This article shall not be construed to negate, alter, or
- 4 limit a right to counsel in a criminal or civil action or proceeding
- 5 otherwise provided by local, state, or federal law.

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